

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

Grace L. Bolden-Wilson and,	:	
Vance Wilson,	:	C.A. No. 07-01-0018AP
	:	
Plaintiff below/	:	
Appellee,	:	
	:	
v.	:	
	:	
Hertrich's Corporation/	:	
Hertrich of Milford Ltd.,	:	
	:	
Defendant below/	:	
Appellant.	:	

Submitted: January 26, 2007

Decided: January 26, 2007

Decision on appeal from the Justice of the Peace Court.

Appellant's appeal is dismissed as untimely.

Grace L. Bolden-Wilson, 100-18 Valley Drive, Milford, Delaware 19963, Pro Se Appellee.

Vance Wilson, 100-18 Valley Drive, Milford, Delaware 19963, Pro Se Appellee.

Andre M. Beauregard, Esquire, Brady, Richardson, Beauregard & Chasanov, LLC, 401 Rehoboth Avenue, Rehoboth Beach, Delaware 19971, Attorney for Appellant.

Trader, J.

This is a civil appeal from the Justice of the Peace Court 16 that was filed in this Court on January 5, 2007 and final judgment was entered in Justice of Peace Court 16 on April 17, 2003. Therefore, the appeal must be dismissed as untimely.

The posture of the case is as follows: On September 26, 2002, the plaintiffs filed a civil action against Hertrich's Corporation and Hertrich's of Milford, Ltd. in the Justice of the Peace Court. The defendant failed to appear for trial and on January 13, 2003, a default judgment was entered against the defendant. The defendant's attorney filed a motion to set aside the default judgment and after a hearing on April 17, 2003, the motion was denied. On May 7, 2003, the defendant filed a notice of appeal was filed with this Court. On August 19, 2003, I dismissed this appeal for violation of the mirror image rule since the defendant omitted a party plaintiff essential to this appeal. *Wilson v. Hertrich Corp.*, Trader J. C.A. No. 03-04-0144AP (Del. C.C.P. Aug. 19, 2003). On September 9, 2003, the plaintiffs transferred the judgment to the Superior Court. Therafter, the plaintiff requested that a writ of execution be issued on the Superior Court judgment. The Sheriff of Kent County would not serve the writ because he was uncertain of the existence of the defendant corporation.

On November 29, 2006, the plaintiffs filed a motion in the Superior Court to amend the caption of the case. The Superior Court remanded the case to the Justice of the Peace Court for further action by the magistrate. The Justice of the Peace Court granted the motion to amend the caption by adding Hertrich Corporation/Hertrich of Milford Ltd. to the caption.

Based on defendant's counsel's replies to the Court at oral argument, the correct name of the corporation is Hertrich of Milford, Ltd. The Justice of the Peace Court has

authority to correct a clerical mistake in the caption of this case at any time under Civil Rule 60(a).

Under Sec. 9571 an appeal must be perfected within fifteen days of the date of final judgment. The final judgment was entered on April 17, 2003 and the appeal was filed with this Court on January 5, 2007. Accordingly, this appeal is untimely and must be dismissed.

IT IS SO ORDERED.

Merrill C. Trader
Judge